

General Information Letter: Individuals are not allowed federal itemized deductions, including gambling losses.

March 13, 2007

Dear:

This is in response to your undated letter regarding gambling losses. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

I would like to know who decides and then makes into law the absolutely wrong decision that we as Illinois citizens, if we decide to use gambling as some of our entertainment and are fortunate enough to cash some winning tickets that are required to be reported to the government, but then proceed to lose all or even more than the winnings over the course of a year are still required to pay taxes? What are we paying taxes on? We made no profit whatsoever so how and on what are we being taxed? This is absolutely no different than taking someone who doesn't have any income or job and telling them (As in my case) Hey we want \$2500 from you! This to me should be illegal, is immoral and to me is akin to stealing!! I want someone to tell me how this is justified? Not write back and tell me "well it's the law". I know that, I want to know why it's a law? I mean the federal government doesn't do that they allow you to deduct your losses. Only 8 out of the other 49 states are the same as you/us where they tax you no matter what, so that should tell you something. And also please don't write back and say "well if you don't like it don't gamble". It's not anyone's place to tell someone how and where they should decide to get their entertainment from, but it should be their place to not rip people off for their choice of how they want to be entertained.

Average income citizens with families, homes, cars, etc. We don't have \$2500 to be giving out ESPECIALLY when it is not warranted! I truly want someone to even attempt to tell me how this can be to get taxed with no profit being made.

This is why governments and politicians are so despised and distrusted by so many people. Anything to put money in their pockets no matter the consequences to the "little guy". But as usual it's the government so they do what THEY want not what the people want and although I know I am paddling upstream without an oar so to speak, I still intend to at least check into any legal documents or whatever I can do to fight this, because as I said if I made no profit then why aren't the people with no income required to pay also?

The law should be changed to have the state look at your adjusted gross income, the same as the feds do, not your total income before itemizing, at least in the case of gambling if you have no overall profit.

So I would appreciate someone writing back and explain to me the reasons for this law and the justification in it as to why someone has to pay \$2500 just because they chose to entertain themselves.

## **Response**

Under Section 203 of the Illinois Income Tax Act (35 ILCS 5/203), the computation of an individual's "net income" taxed by Illinois begins with his or her "adjusted gross income," as properly computed for the taxable year for federal income tax purposes. Various addition and subtraction modifications are then made, and the resulting "base income" is then allocated and apportioned to Illinois. Section 203(h) provides that no modification may be made to taxable income or adjusted gross income unless expressly provided in Section 203.

Under Section 62 of the Internal Revenue Code (26 U.S.C. Section 62), "adjusted gross income" means income before any itemized deductions, standard deduction, or exemptions are taken into account. As such, it does not take into account any gambling losses that are allowed as itemized deductions for federal income tax purposes. Because there is no provision in Section 203 of the Illinois Income Tax Act allowing a modification to federal adjusted gross income in order to deduct gambling losses, no such modification can be granted.

This has been the law in Illinois since the Illinois Income Tax Act was first adopted in 1969, and it would require legislative action to change. I cannot speak for the General Assembly on how or why they chose to adopt this method of computing net income subject to Illinois income tax, but I can point out that this method also disallows itemized deductions that many people might consider more worthy of allowing, such as medical care expenses, home mortgage interest, and taxes. In addition, as you point out in your letter, many people view gambling losses as a cost of entertainment, and entertainment expenses are not deductible.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton  
Deputy General Counsel – Income Tax